

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** MICHAEL G. HUGHES  
and WILLIAM A. ROUSSEAU

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Appeal No. 1997-3819  
Application No. 08/278,153<sup>1</sup>

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ON BRIEF

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Before KRASS, FLEMING and DIXON, ***Administrative Patent Judges.***  
FLEMING, ***Administrative Patent Judge.***

***DECISION ON APPEAL***

This is a decision on appeal from the final rejection of  
claims 1 through 10.

The invention relates to a system which can scan and

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<sup>1</sup>Application for patent filed July 21, 1994.

determine the shape of irregular cylindrical objects such as logs. On page 5 of the specification, Appellants identify that the logs are moveably supported by headblocks into an area proximate the saw blade. A laser projects one or more lines of light into the area proximate the saw blade, and a camera is positioned to observe this area. On page 6 of the specification, Appellants identify that when the laser light first appears on the surface of the logs, the position of the headlocks is used to determine the horizontal profile of the log. As the log is moved further forward, the lines of laser light on the surface of the log are observed by the camera to determine the straightness of the log. Appellants identify on page 7 of the specification that this information is processed by a control device which then adjusts the headblocks to position the log to cut the boards.

Independent claims 1 and 9 are representative of the invention:

1. A scanning system for determining dimensions and shape of an object, comprising:
  - means for projecting at least one line onto a scanning area, said line extending in a first direction;
  - means for moving the object, in a second direction

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which is perpendicular to the first direction, into the  
scanning area;

means for detecting an image formed on a surface of  
said object which is formed by said line; and

means for monitoring a position of the object.

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9. A headsaw device for cutting a log as the log is moved along its length in a first direction comprising:

a sawblade;

means for projecting at least one line onto a scanning area which is proximate said sawblade, said line extending in a first direction;

means for moving the log, in a second direction which is perpendicular to the first direction, toward said sawblade into the scanning area;

means for detecting an image formed on the log which is formed by said line;

means for conveying the log in the first direction to accomplish a sawing operation on the log; and

means for monitoring a position of the log.

The Examiner relies upon the following references:

Flodin	4,262,572	Apr. 21,
1981		
Olsson	4,294,149	Oct.
13, 1981		

Claim 1 stands rejected under 35 U.S.C. § 102 as being unpatentable over Flodin.

Claims 1 and 9 stand rejected under 35 U.S.C. § 102 as being unpatentable over Olsson.

Claims 2 through 10 stand rejected under 35 U.S.C. § 103

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as being unpatentable over Olsson.<sup>2</sup>

Rather than reiterate the arguments of the Appellants and the Examiner, reference is made to the brief and answer for the respective details thereof.

### **OPINION**

After careful review of the evidence before us, we agree with the Examiner's rejection of claim 1 under 35 U.S.C. § 102 as being unpatentable over Flodin. However, we reverse the rejection of claims 1 and 9 under 35 U.S.C. § 102 as being unpatentable over Olsson and the rejection of claims 2 through 10 under 35 U.S.C. § 103 as being unpatentable over Olsson.

We first consider the rejection of claim 1 under 35 U.S.C.

§ 102 as being unpatentable over Flodin. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional

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<sup>2</sup>In our view, this should be claims 2 through 8 and 10 since claim 9 was rejected under 35 U.S.C. § 102 and not addressed in the text of the rejection under 35 U.S.C. § 103.

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limitations. **RCA Corp. v. Applied Digital Data Sys. Inc.**, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984), **cert. dismissed**, 468 U.S. 1228 (1984); **W. L. Gore & Assocs., Inc. v. Garlock Inc.**, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), **cert. denied**, 469 U.S. 851 (1984). "A reference anticipates a claim if it discloses the claimed invention 'such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention.'" **In re Graves** 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), **cert. denied**, 517 U.S. 1124 (1996) (**citing In re LeGrice** 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962)).

Appellants argue on pages 5 and 6 of the appeal brief (brief) that claim 1 includes the limitation that an image of a line is formed on the surface of the object. Appellants assert that this limitation is shown in the claim 1 recitation of "means for detecting an image formed on a surface of said object." Appellants assert that Flodin teaches placing wire in the line of sight of the operator, and does not disclose detecting an image that is formed on the surface of the

object.

On page 6 of the Examiner's answer (answer), the Examiner asserts that Flodin teaches that the "line is effectively projected onto the log as seen by the operator." The Examiner asserts that this teaching meets claim 1, as all claim 1 recites is projecting an image onto the log, which is taught by Flodin.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Claims will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985).

We find that the scope of claim 1 includes that the image of a line is projected into the scanning area, and that the image is formed on the surface of the object. These limitations are found in the "means for projecting at least

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one line onto a scanning area" and "means for detecting an image formed on a surface of said object."

We find that Flodin discloses the limitation of projecting an image onto the surface of an object. Specifically, Flodin discloses a log sawing apparatus where there are multiple sets of wires in the line of sight of the operator. The wires provide a grid for an operator to use when making decisions concerning the cutting of the log. See Column 3, lines 21 through 35. Further, Flodin discloses that "the grid pattern may be projected onto the log by various light projection means." See Column 5, lines 63 through 65. We find that projecting the grid on the log by light projection means, requires the lines to be on the log.



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We note that with respect to the rejection of claim 1 as being unpatentable over Flodin, Appellants have chosen not to argue any other specific limitations of claim 1 as a basis for patentability. We are not required to raise and/or consider such issues. As stated by our reviewing court in ***In re Baxter Travenol Labs.***, 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991), "[i]t is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art." 37 C.F.R. 1.192(a) as amended at 60 FR 14518 March 17, 1995, which was controlling at the time of Appellants' filing the brief, states as follows:

The brief . . . must set forth the authorities and arguments on which the appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief may be refused consideration by the Board of Patent Appeals and Interferences.

Also, 37 C.F.R. § 1.192(c)(8)(iii) states:

For each rejection under 35 U.S.C. 102, the argument shall specify the errors in the rejection and, why the rejected claims are patentable under 35 U.S.C. § 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

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Thus, 37 C.F.R. § 1.192 provides that just as the court is not under any burden to raise and/or consider such issues, this board is also not under any greater burden. For the forging reasons, we sustain the Examiner's rejection of claim 1 under 35 U.S.C.

§ 102 as being unpatentable over Flodin.

We next consider the rejection of claims 1 and 9 under 35 U.S.C. § 102 as being unpatentable over Olsson. We find that the Examiner has not made a ***prima facie*** case.

Appellants argue on page 6 of the brief that Olsson does not teach that lines are projected onto the surface of the log. Appellants assert that the lines depicted in Olsson's figure 1 are not projected onto the log, but rather are virtual lines calculated by a control device.

On page 7 of the answer, the Examiner asserts that figure 7 represents both an actual log and a computer model. As such, the Examiner concludes that "[t]he logs really have lines on their exteriors and are measured or detected so that a model may be used to calculate how to process each log accordingly."

As stated above, we find that the scope of claim 1 includes that the projected line forms an image on the surface of the object. We find that the scope of claim 9 similarly includes that an image of a line is projected into the scanning area, and that an image is formed on the surface of the object. These limitations are found in the recitation of "means for projecting at least one line onto a scanning area" and "means for detecting an image formed on a surface of the log."

We find that Olsson teaches a system for orientating a log in a saw mill for optimum cutting. See Column 4, lines 6 to 15. Olsson teaches that the log is observed by either two or three cameras which traverse the log scanning it's surface contour. See Figures 1, 6 and 8a, the description in Column 7, line 51 through Column 8, line 37 and the description in Column 8, line 63 through 68. Olsson teaches that the scanned data is used to generate a model which in a simplified form defines the contour of the log. See Figure 7, description in Column 7, lines 30 to 51 and Column 9, lines 8 through 12. We find

that Olsson fails to teach that lines are projected onto the surface of the log. We find that the lines depicted in Olsson's Figure 7 are the surface contour lines of the simple geometric representation of the log and are not lines projected onto the surface of the log. Accordingly, we find that Olsson does not anticipate every limitation of either claim 1 or 9. Therefore, we will not sustain the rejection of claims 1 and 9 under 35 U.S.C. § 102 as being unpatentable over Olsson.

We next consider the rejection of claims 2 through 8 and 10 under 35 U.S.C. § 103 as being unpatentable over Olsson.

On pages 4 and 5 of the answer, the Examiner sets forth the rejection relying on Olsson and assertions of what is known in the art.

On pages 7 and 8 of the brief, Appellants reiterate that Olsson does not teach that lines are projected onto the surface of the logs.

As stated above, we find that the scope of independent claims 1 and 9 includes that the projected line forms an image on the surface of the object. We find that the scope of independent claim 10 similarly includes that an image of a

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line is projected into the scanning area, and that an image is formed on the surface of the object. These limitations are found in the recitation of "means for projecting at least one line onto a scanning area" and "means for detecting an image formed on a

surface of the log." Further, we find that the scope of claims

2 through 8 contains this limitation as claims 2 through 8 are all ultimately dependent upon Claim 1.

As also stated above, we find that Olsson fails to disclose projecting lines onto the surface of the log. Similarly, we find that Olsson fails to provide a suggestion to project lines onto the surface of the log. We find that Olsson specifically states that the width of the log is scanned, Column 7, lines 66 through 68. We find that Olsson's scanning cameras observe the diameter of the log as they transverse the log and that as such Olsson does not provide a suggestion to project a line onto the surface of the log. Accordingly, we will not sustain the rejection of Claims 2 through 10 under 35 U.S.C. § 103.

For the foregoing reasons we affirm the Examiner's

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rejection of claim 1 under 35 U.S.C. § 102 as being  
unpatentable over Flodin. We reverse the rejection of claims  
1 and 9 under  
35 U.S.C. § 102 as being unpatentable over Olsson and the  
rejection of claims 2 through 8 and 10 under 35 U.S.C.  
§ 103 as being unpatentable over Olsson.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

***AFFIRMED-IN-PART***

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ERROL A. KRASS	)	)
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JOSEPH L. DIXON	)	
Administrative Patent Judge	)	

MRF:hh



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